

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH DANIEL HUDEK IV,

Defendant.

CASE NO. CR17-0174-JCC

ORDER GRANTING
GOVERNMENT'S MOTION IN
LIMINE

This matter comes before the Court on the Government's motion in limine (Dkt. No. 40). Having considered the parties' briefing and the relevant record, the Court finds oral argument unnecessary and hereby GRANTS the motion for the reasons explained herein.

Defendant Joseph Daniel Hudek is charged with one count of interfering with a flight crew (Count 1) and four counts of assault within the special aircraft jurisdiction (Counts 2–5). (Dkt. No. 10.) All but the final count represent general intent crimes. (Dkt. No. 45 at 3.) Trial is scheduled to begin February 26, 2015. The Government moves to preclude Hudek's introduction of a mental capacity defense for the general intent crimes (Counts 1–4), to the extent that the defense would be based on voluntary intoxication, diminished capacity, or insanity. (Dkt. No. 40 at 1.) Hudek concedes "that neither voluntary intoxication nor diminished capacity is a defense to general intent crimes." (Dkt. No. 45 at 3.) The availability of an insanity defense remains at issue.

1 In opposing the Government’s motion, Hudek relies exclusively on *U.S. v. Henderson*,
2 680 F.2d 659, 662 (9th Cir. 1982). *Henderson* followed *U.S. v. Burnim*, 576 F.2d 236 (9th Cir.
3 1978). In *Burnim*, the Ninth Circuit held that if a defendant was both voluntarily intoxicated and
4 suffered from severe mental illness at the time of the crime, the defendant could still put forth an
5 insanity defense, but only to the extent that incapacitation was the result solely of the mental
6 illness. *Id.* at 237–38.

7 Hudek consumed marijuana prior to boarding his flight. (Dkt. Nos. 40 at 6, 45 at 2.) He
8 now argues, for purposes of a potential insanity defense for Counts 1–4, that according to
9 *Henderson*, the Government bears the burden at trial to establish whether he, in fact, voluntarily
10 ingested the marijuana. (Dkt. No. 45 at 4.) Hudek also argues that even if the Government shows
11 that he voluntarily ingested it, the Government bears the burden at trial to establish whether the
12 marijuana, rather than an underlying mental disease, incapacitated him. (*Id.*) The law has
13 changed since *Henderson* was decided. At the time, it was the Government’s burden to prove
14 sanity. 680 F.2d at 661–62. It is now Hudek’s burden to prove insanity, and he must do so “by
15 clear and convincing evidence.” 18 U.S.C. § 17; *see U.S. v. Knott*, 894 F.2d 1119, 1122 n.4 (9th
16 Cir. 1990).

17 Hudek alleges that “an underlying medical condition” may have caused his incapacitation
18 rather than ingestion of marijuana. (Dkt. No. 45 at 5 n. 2.) He further claims that the Government
19 bears the burden of proving that his ingestion of marijuana was voluntary. (*Id.* at 4.) Based on
20 these assertions, Hudek argues that unresolved factual issues remain and the Government’s
21 motion should be denied. (*Id.* at 5–6.) But as the Ninth Circuit clarified following *Henderson*,
22 mental illness is not relevant if the defendant was also voluntarily intoxicated at the time he
23 committed a general intent crime. *See Knott*, 894 F.2d at 1122 (mental illness would only be
24 relevant if it “compelled him to drink”).

25 Hudek does not allege that a mental illness compelled him to ingest marijuana prior to
26 boarding his flight, only that mental illness, rather than the marijuana, may have caused his

1 incapacitation. (*See generally* Dkt. No. 45.) Absent a credible allegation that mental illness
2 compelled him to *ingest* the marijuana—and, again, Hudek provides none—there remain no
3 factual issues for trial on this issue based on current law. Therefore, the Court finds the
4 Government’s motion should be granted.

5 For the foregoing reasons, the Government’s motion in limine (Dkt. No. 40) is
6 GRANTED. Hudek is precluded from raising a mental capacity defense based on voluntary
7 intoxication, diminished capacity, or insanity as to Counts 1 through 4 of the Indictment.

8 DATED this 2nd day of January 2018.

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12 John C. Coughenour
13 UNITED STATES DISTRICT JUDGE
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